

IN THE CLAIMS

Claim 80, line 2, strike "non-resorbing" if such was previous
entered and, in line 4, after "compatible" insert -- non-resorbing

REMARKS

In accordance with the above amendment, Claim 80 has been amended to correct what applicants believe to be an inadvertent error in the previous amendment in which line 2, rather than line 4, was indicated as a location for inserting an additional word. Applicants apologize for any misinterpretation of the claim that may have been occasioned thereby.

Claims 80-97, 99 and 100 remain in the case and no claim has been allowed.

With respect to the claims under consideration, applicants remain convinced of the merit of their position. The applicable references, Berg et al. (U.S. Patent 4,837,285) and Miyata et al. (U.S. Patent 4,565,580), taken either alone or in combination, fail to teach or suggest an injectable particulate implantation tissue augmentation system that meets or renders obvious the requirement of the material of the present claims, including the ability of the particles to autogenously cooperate to preclude particle migration and the further ability to remain in situ to form part of a permanent implant. This is required by all of applicants' claims.

Support for the position of the Examiner with respect to the relative hardness and malleability of the collagen particulate matter of the references is not found in the references. Furthermore, the use of collagen fibrils in intraocular implants is believed to be irrelevant to the issue of permanence of injected particulate tissue augmentation material. Evidence as to such use of collagen fibrils and as to the mode of tissue recovery in intraocular implants has not been presented in the reference applied and appears only as the unsupported personal opinion of the Examiner. Thus, one cannot know whether the collagen is replaced by tissue in the intraocular situation or not based on the references supplied to the applicants. This, of course, places the applicant at an unfair disadvantage and appears to represent a position that cannot be sustained.

Applicants believe that the above amendment should be entered inasmuch as it merely corrects an inadvertent error and clearly does not broaden the claim involved. Applicants further believe the present claims to be allowable over the prior art known to the taking either singularly or in combination, and entry of the

amendment, reconsideration and allowance of the claims are earnestly solicited.

Respectfully submitted,

HAUGEN AND NIKOLAI, P.A.



C. G. Meisereau
Registration No. 26205
Attorney for Applicant
900 Second Ave. S., Suite 820
Minneapolis, MN 55402
(612) 339-7461

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing letter, together with an Amendment under 37 CFR § 1.116, a petition for extension of time and an authorization to withdraw from our deposit account \$55.00 in payment of the extension fee, in application Serial No. 08/021,571 filed on October 10, 1994, of Robert A. Ersek et al entitled "TEXTURED MICRO IMPLANTS" is being sent by facsimile transmission (1-703-305-3590) to: Attention: Examiner Debra S. Brittingham, Art Unit 3308, BOX AF, The Commissioner of Patents and Trademarks, Washington, D.C. 20231, on February 20, 1996.



Linda J. Rice
Secretary

Date of Signature: Feb. 20, 1996.